

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 99-0517

Use Tax

Calendar Years 1996, 1997, 1998

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ISSUE(S)

I. **Sales Tax** – Contractor sales

Authority: 45 IAC 2.2-4-22(b)

Taxpayer protests sales tax on repair invoices.

II. **Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer protests the penalty assessed on an audit completed on June 22, 1999 and has withdrawn Issue I. in a letter dated January 14, 2000.

Taxpayer had a use tax accrual system in place but failed to self assess use tax on clearly taxable items.

I. **Sales Tax** – Contractor Sales

DISCUSSION

Taxpayer has withdrawn the issue by letter dated January 14, 2000.

1. II. **Tax Administration** – Penalty

DISCUSSION

Taxpayer's audit report revealed that no use tax accrual system was in place for calendar years 1997 and 1998. In 1996, taxpayer paid \$9.26 on its annual income tax return. The taxpayer failed to self assess as required by statute and was aware that tax was due which can be demonstrated by its own filing for 1996.

Taxpayer merely states that it did exactly as the prior years' audit, which was a no change. In addition, taxpayer also asserts that the auditor states that the taxpayer was not registered with the department, which is untrue. For these reasons a penalty assessment is not warranted and a request for its abatement was submitted by the taxpayer.

Taxpayer, however, is aware that use tax is due for parts and materials consumed in Indiana. It made a payment in 1996 on its annual income tax return but failed to make any type of use tax payment for 1997 and 1998. Many of the items assessed tax are clearly taxable. Failure to self assess use tax constitutes negligence.

FINDING

Taxpayer's protest is denied.